

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE APPLICATION	:	
FOR A LICENSE OF	:	
	:	FINAL DECISION AND ORDER
CINDY A. THAYER,	:	(96 MED 221)
APPLICANT.	:	

The parties to this proceeding for purposes of sec. 227.53, Stats. are:

Cindy A. Thayer
3814 Woodland Drive
Manitowoc, WI 54220

Wisconsin Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Cindy A. Thayer, personally, and by Ron A. Kaminski, attorney for Cindy A. Thayer, and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Cindy A. Thayer, 3814 Woodland Drive, Manitowoc, Wisconsin 54220 was born on 01/21/57. On 02/13/96, Ms. Thayer made application for certification as a respiratory care practitioner.
2. On 05/08/96, the Wisconsin Medical Examining Board entered an Order denying Ms. Thayer's application on the ground that she had been practicing respiratory care without a certificate between September, 1993 and January, 1996 in violation of sec. 448.03(1m), Stats.

3. The Order Denying Application dated 05/08/96 was served on Ms. Thayer by mailing a copy of this document to Ms. Thayer by certified mail on 05/14/96.

4 Ms. Thayer, by letter dated 06/02/96 and postmarked 06/05/96, requested a hearing on the denial of her application.

5. Ms. Thayer practiced respiratory care without a certificate from September, 1993 to the present.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to sec. 448.02, Stats.

2. The Wisconsin Medical Examining Board has the authority to resolve this disciplinary proceeding by Stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.

3. Cindy A. Thayer's conduct in practicing respiratory care without a certificate was conduct in violation of sec. 448.03(1m) and Wis. Admin. Code sec. MED 10.02(2)(a), and thereby constituted a basis for denying Ms. Thayer's application for certification as a respiratory care practitioner.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Cindy A. Thayer's application for certification as a respiratory care practitioner is granted effective on the date of this Final Decision and Order.

IT IS FURTHER ORDERED that Cindy A. Thayer's certification as a respiratory care practitioner is suspended commencing on the date of this Final Decision and Order and continuing until 10/24/96 or until Cindy A. Thayer has complied with all of the terms of this Final Decision and Order, whichever period of suspension is greater.

IT IS FURTHER ORDERED that Cindy A. Thayer shall not engage in any conduct which constitutes the practice of respiratory care as defined in sec. 448.01(9g), Stats., irrespective of whether she is under the direction, supervision or inspection of a physician or podiatrist.

IT IS FURTHER ORDERED that Cindy A. Thayer shall complete not fewer than 12 hours of continuing education in the area of ethics for health care providers. These continuing education programs shall be approved in advance by the Wisconsin Medical Examining Board.

IT IS FURTHER ORDERED that Cindy A. Thayer shall appear before the Wisconsin Medical Examining Board on 10/24/96 or on a date thereafter to demonstrate compliance with all of the terms of this Final Decision and Order.

IT IS FURTHER ORDERED that upon compliance with all of the terms of this Final Decision and Order, the suspension shall terminate and Cindy A. Thayer shall be certified without limitation as a respiratory care practitioner.

IT IS FURTHER ORDERED that pursuant to sec. 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Cindy A. Thayer has violated the terms of this Final Decision and Order of the Wisconsin Medical Examining Board, the Board may order that the certificate of Cindy A. Thayer to practice as a respiratory care practitioner in the State of Wisconsin be summarily suspended pending investigation of the alleged violation.

The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 24th day of July, 1996.

WISCONSIN MEDICAL EXAMINING BOARD

Walter R. Schwartz, M.D.
Walter R. Schwartz, M.D., Secretary

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE APPLICATION	:	
FOR A LICENSE OF	:	
	:	STIPULATION
CINDY A. THAYER,	:	(96 MED 221)
APPLICANT.	:	

It is hereby stipulated between Cindy A. Thayer, personally, and by her attorney, Ron A. Kaminski, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Cindy A. Thayer, 3814 Woodland Drive, Manitowoc, Wisconsin 54220 was born on 01/21/57. On 02/13/96, Ms. Thayer made application for certification as a respiratory care practitioner. On 05/08/96, the Wisconsin Medical Examining Board by an Order Denying Application denied Ms. Thayer's application for certification as a respiratory care practitioner. Ms. Thayer petitioned for a hearing on the denial and this petition was granted. The denial proceeding is pending before the Wisconsin Medical Examining Board.

2. Cindy A. Thayer consents to the entry of the Final Decision and Order, a copy of which is attached hereto and incorporated herein.

3. Cindy A. Thayer understands that by signing this Stipulation, she freely, voluntarily and knowingly waives her rights, including the right to a hearing on the allegations against her, the right to confront and cross-examine witnesses against her, the right to call witnesses on her behalf and to compel their attendance by subpoena, the right to testify on her own behalf, the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision and order, the right to petition for rehearing, the right to judicial review, and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

4. The parties to this Stipulation and the board advisors, James L. Esswein, M.D. and Mary G. Lamken, R.R.T., may appear before the Wisconsin Medical Examining Board in support of this Stipulation. Any appearance by any party pursuant to this paragraph shall be preceded by proper and timely notice to all parties to this proceeding.

5. This Stipulation is subject to approval by the board advisors, James L. Esswein, M.D. and Mary G. Lamken, R.R.T., the supervisor of attorneys in the Division of Enforcement, Michael Berndt, and the Stipulation Committee in the Division of Enforcement and acceptance by the Wisconsin Medical Examining Board.

6. If any term of this Stipulation or the incorporated Final Decision and Order is not approved as set forth in paragraph 5 and accepted by the Wisconsin Medical Examining Board, then no term of this Stipulation or Final Decision and Order will be binding in any manner on any party, and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: 7-19-96

Cindy A. Thayer
Cindy A. Thayer, Applicant

Dated: 7/18/96

Ron A. Kaminski
Ron A. Kaminski
Attorney for Cindy A. Thayer

Dated: 7/18/96

Gilbert C. Lubcke
Gilbert C. Lubcke
Attorney for Department of Regulation & Licensing
Division of Enforcement

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NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

July 25, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)